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VIA FACSIMILE - 03 PAGES (Including This Cover) **TRANSMITTED TO USPTO CENTRAL FAX NO. 703-872-9306**

Commissioner for Patents
 MAIL STOP: Issue Fee
 POB 1450, Alexandria, Virginia 22313-1450

RE: Yoshikatsu FUJII et al., US Appl'n No. 09/517,176
 Atty Docket 501.38264X00
Examiner J.L. Habermehl - AU 2651 - USPTO Conf. No. 4516

SUBMISSION OF RESPONSE TO DECISION

Sir:

Applicant hereby transmits the attached "RESPONSE TO DECISION" (02 pages) for entry in the above-identified application.

CERTIFICATE OF TRANSMISSION:

I hereby certify that the attached "RESPONSE TO DECISION" (02 pages) is being FORMALLY TRANSMITTED via the USPTO CENTRAL FAX NO. 703-872-9306 on 30 April 2004.



Patricia J. Jaquet

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501.38264X00/349900777US1

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Applicant : Yoshikatsu FUJII et al.

APR 30 2004

Serial No. : 09/517,176

Filed : 3 March 2000

For : IDLE SEEK CALIBRATION METHOD FOR MAGNETIC
DISK DRIVE AND MAGNETIC DISK DRIVE WITH AN
INTERMISSION CALIBRATION (As Amended)

Art Unit : 2651

Examiner : J.L. Habermehl

Conf. No. : 4516

RESPONSE TO DECISION

Mail Stop Issue Fee
Commissioner for Patents
POB 1450
Alexandria, Virginia 22313-1450

30 April 2004

Sir:

In response to Applicant's Petition Under 37 CFR §1.181 filed 21 August 2003, a Decision on Petition was mailed 23 April 2004. In response to the 23 April Decision, Applicant submits the following statements for correction of the record.

The third and fourth paragraphs in the "Decision Under 37 CFR 1.181" state:

Petitioner has submitted as proof of receipt of the alleged reply a date stamped non-receipt of the non-final Office. (emphasis added)

A review of the application file does not indicate receipt of the reply purportedly filed June 3, 2003.... (emphasis added)

Applicant respectfully submits that the above emphasized text in the Decision, as far as it is understood, appears to be in error. More specifically, as is clearly identified in Applicant's §181 Petition, Applicant submitted proof of 11 June 2003 timely filing of the Issue Fee in the form of a copy of the postcard receipt itemizing

FUJII et al., SN 09/517,176
Sub. on Decision dated 04/30/2004

Dkt No. 501.38264X00/349900777US1
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the papers filed and bearing the Office date (OIPE/Mail Room date stamp) of 11 June 2003. Therefore, in accordance with MPEP §503, Applicant respectfully rebuts the above emphasized text in the Decision.

It is noted that the first paragraph on page 2 of the Decision (2ND paragraph under "Decision on Request for Re-Determination of Patent Term") states:

Petitioner is advised that the Issue Notification will indicate the amount of patent term adjustment, if any, accorded any patent to issue from the instant application. (emphasis added)

Applicant respectfully submits that, in view of the fact that the Office has vacated the holding of abandonment and passed the application to issue, the Office recognizes that this application was abandoned in error. Moreover, the Notice of Abandonment for this case was mailed on 21 July 2003, and Applicant promptly filed the §181 Petition to overcome the holding of abandonment on 21 August 2003, only one (1) month later, but the Decision on such Petition was not mailed until 23 April 2004, more than eight (8) months after the filing of Applicant's §181 Petition. Therefore, Applicant respectfully submits that such term adjustment for the period in which the application was mistakenly held abandoned is proper.

Applicant respectfully requests entry of this Response for correction of the record as indicated above.

Respectfully submitted,



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